

### **REMARKS/ARGUMENTS**

The final Office Action of December 28, 2004 has been carefully reviewed and considered. In the Office Action, claims 24, 25 and 29 were allowed. Claims 18-22, 27 and 28 were rejected under 35 U.S.C. §102(b).

Claims 18 and 28 have been amended. Claims 18-22, 24, 25 and 27-29 remain pending and considered in this application.

The finality of the outstanding Office Action must be withdrawn. In the previous Office Action, claims 24 and 29 were indicated to be allowable if rewritten in independent form. In the Amendment filed on September 24, 2004, the Applicant rewrote claims 24 and 29 in independent form and included all the limitations of each intervening claim. Accordingly, based on the previous Office Action, amended claims 24 and 29 filed on September 24, 2004 were allowable. However, claims 24 and 29 were not allowed in the outstanding final Office Action.

The recitation of "suggestions" set forth for the first time in the Allowable Subject Matter section of the outstanding final Office Action contradicts the indication of allowability of claims 24 and 29 set forth in the previous Office Action. The suggestions set forth in the final Office Action were not necessitated by any action on the part of the applicant and procedurally amount to an impediment of the allowance of claims 24 and 29. Accordingly, their inclusion in the outstanding Office Action prevents the finality of this Office Action from being proper. Withdrawal of the finality of the outstanding Office Action is requested.

An aspect of the present invention relates to a guiding and supporting member that can be used to maintain a flexible article, such as a cable, at a predetermined bend radius. This is important when pulling cables, such as CAT 5 cables, that will be damaged if not pulled along a

proper bend. The guiding and supporting member permits flexible articles to be pulled along a pathway using a minimum amount of force and causing a minimum amount of tension within the flexible article. As a result, these flexible articles can be pulled at tension levels below the maximum permitted by building codes or recommended within the industry. One reason for this reduction in longitudinal stresses and tension within the flexible articles is the reduction of friction along the pulling pathway. Unlike conventional conduits and cable trays, the guiding and supporting members reduce the amount of surface area in contact with the flexible articles while maintaining recommended bending radii and providing a required amount of support during and after installation.

Claims 18-22, 27 and 28 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,248,459 to Pate et al. that discloses the use of flexible corrugated conduit sections (10) and straight connector sleeves for a wiring system. In the Office Action, it was asserted that the corrugated sections (10) anticipate the curved elongated bodies having substantially fixed and predetermined bends that are recited in claims 18 and 28.

As discussed in column 7, lines 25-28, of the patent to Pate, the conduits (10) are flexible so that they can be bent to a needed angle after being introduced into a system. These conduits (10) are capable of assuming any curve between 0 degrees and 90 degrees. Clearly, a conduit that is capable of assuming any curve cannot, by definition, have a fixed, predetermined bend as recited in claims 18 and 28. Instead, the conduit would be free of a fixed, predetermined bend.

Since the conduits of Pate are free to assume any one of multiple angles, they do not include a substantially fixed, predetermined bend as recited in claims 18 and 28. As a result, the

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conduits disclosed in the patent to Pate do not anticipate the recited guiding and supporting member of claim 18 or the recited sweep of claim 28. Withdrawal of the rejection is requested.

As discussed above, the Office Action provides suggestions for amending allowable claims 24 and 29, which were previously indicated to be allowable as currently written. Since no basis for the suggestions has been set forth in the Office Action, Applicant has chosen not to adopt the suggestions and relies on the previously provided indication of allowability. Allowance of these claims is requested.


In view of the above discussion, Applicant submits that claims 18-30 are allowable over the prior art. A notice to this effect is requested.

The Commissioner is authorized to charge any additional fees related to this matter to Deposit Account No. 19-0733.

Respectfully submitted,  
BANNER & WITCOFF, LTD.

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